The Imperative to Replace Citizenship-Based Taxation (CBT) with Residence-Based Taxation (RBT)

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1. <u>The Real Purpose of Citizenship-based Taxation is Not to Generate Tax Revenue</u>

Every nation in the world subjects its residents, both citizens and foreigners to taxation.

The US, however, is totally unique in the industrialized world with a Citizenship-based tax system which not only subjects all US residents but also all US citizens (and green-card permanent resident foreign citizens) who reside *outside* of US territory to US taxes as if they lived and their income was received within the United States. The US citizenship-based taxation is first and foremost a Sin Tax, the primary purpose of which is *not* to generate tax revenue for the US Treasury, but without making it illegal to do so (because doing so would be in violation of the US Constitution). Its primary purpose is to discourage US citizens from living and working outside of the US. US persons who live outside of our borders in a country whose tax system does not mirror the US income tax system and whose tax rates are not at least as high as those of the US are considered by this citizenship based taxation to be tax evaders, until and unless they can prove themselves otherwise. They are therefore, in accordance with our citizenship-based tax system, deserving of the punishment of continued subjection to US taxes for committing the highly suspicious act of living outside of the US. If the foreign country imposes a tax on income which is at least as high as that imposed by the US, then the person is considered less likely to be a tax evader and therefore probably owes nothing additional to the IRS. But if the foreign income tax is less than the US tax, then the person is required to pay the IRS what amounts to difference between the income tax paid to that foreign country and what the US tax on that income would be.

The most recent information available from the Treasury Department, for tax year 2006, confirms that after the limited Foreign Earned Income Exclusion (which applies only to earned income), and foreign tax credits, 82% of overseas filers owed nothing to the IRS[1]. Yet though they end up with a zero US tax obligation they are obligated to file the prescribed tax return and other obligatory forms with the IRS and/or Treasury Department. Such persons are deemed to be in full compliance with US tax law even though these 82% generate not one penny of revenue for the US Treasury. It is therefore not accurate to describe the primary result of citizenship-based taxation as the generation of tax revenue for the US Treasury, but to obligate US citizens to pay a cumulative income tax obligation, either to the foreign country, the US or a combination of both, that is at least as much as the US tax on that same income. It matters not to which government they pay this income tax, but only that it has been paid to somebody. Very few US citizens live in countries with tax systems that do not mirror our own, because they cannot survive.

US citizens domiciled in a foreign country, just like those at home whose total worldwide income is $9,750 (single person) must, however, not only file Form 1040 but unlike the person residing in the US, a plethora of additional forms and reports that residents of the US, both US citizens and non-citizen green-card foreigners, are generally not required to file. These include FATCA Form 8938, Treasury Department FBAR Form TD F 90-22.1 reporting details of their "foreign" bank accounts in the country where they live, IRS forms 673, 1116, 2350, and 2555, plus several additional country- and purpose-specific forms. FBAR reports must be filed separately with the Treasury Department rather than the IRS. All foreign currency values must be expressed in equivalent US dollars. Filers are required include full details of not only the US person resident abroad's own local "foreign" bank and financial accounts but also all accounts over which they have any signature or other authority, even if they have no ownership of these accounts. These include the accounts of foreign organizations such as their local church, condominium or homeowners' associations, Boy or Girl Scout troops, social clubs, PTAs, schools, Red Cross chapters, charities and other organizations which they serve in an unpaid volunteer capacity, joint accounts with a non-US citizen spouse and joint accounts with non-citizen family members which are commonly used in some countries for the sole purpose of passing ownership to a survivor in case of death of the account owner. In the case of a company employee who signs checks to pay a foreign employer's bills or who has other authority over the accounts of the foreign employer, the FBAR report may consist of a hundred or more pages. The cost to the employer of preparing this non-owned account report, prepared by the employer' financial staff for the US employee's FBAR report filing, which may be a significant, is considered by the IRS as "in-kind" income to the US person who has signature authority over such accounts and therefore this cost, incurred by the employer, is subject to US income tax to that US person. Supplying this confidential employer financial information to a 3rd party, such as the US Treasury Department, may likely be in violation the bank privacy laws of countries which criminalize the release of confidential financial data by an employee to a third party. The prospects of security compromises for the 6 or 7 million US persons resident abroad under FATCA are horrendous when you consider that the foreign employees of thousands of foreign banks, in preparing the information those banks are obligated to supply to the IRS on their individual personal accounts of US persons, have access to confidential Social Security and foreign tax ID numbers, credit card numbers and their expiration dates and the date of birth of the account holders, as well as complete details of their account balances, the source of deposits, destination of withdrawals, details of credit card purchases, etc. This is all marketable information which, in the hands of just a very few unscrupulous persons looking to profit from its sale, creates for US citizens abroad the very real risk of life-destroying identify theft and bank fraud.

Currently 22 countries do not impose any income tax on their residents[2]. Many more have much lower income tax rates than the US. However, unlike the US, most such countries generate their tax revenues either totally or primarily through non-income taxes, such as customs duties, consumption, value-added, wealth, net-asset, capital, equity, personal property, financial transaction, insurance premium, intangibles, inheritance, stamp duties, excise, solidarity, property transfer, e-commerce, gift, luxury, transportation, goods & services (GST), health care, medical device, excise, property taxes on a home rented from the owner under a foreign rental lease which obligates the renter, not the property owner, to pay the property tax; and a plethora of other non-income taxes that don't exist and are therefore unknown and not recognized either for foreign tax credit or itemized deduction purposes by US tax law. Does this mean that those countries are tax havens where US citizens live tax free? It absolutely does not. US citizen residents of these countries often pay far more in "other taxes" than residents of the US pay in income tax. But because they are not taxes levied on *income*, such US persons are in essence obligated by our tax laws to pay the difference to the IRS between the foreign tax on income and the US tax on that same income. Although Americans abroad are subject to these other taxes levied by the countries where they live, paying US income tax in addition to all of these other taxes often makes them unable to survive unless they are significantly more highly compensated than the prevailing wage for their specific type of work. In countries with anti-discrimination laws patterned after our own, employers are prohibited from compensation discrimination based on nationality or national origin, thus making US citizens unable to survive and therefore unemployable at the prevalent wage levels of those countries. In some countries anti-discrimination laws prohibit banks from even inquiring, let alone recording, the nationality of persons applying to open accounts.

None of these other taxes are creditable against the US tax obligation so the incomes of US persons abroad are fully taxed by the IRS based on the erroneous and unsupportable conclusion that such US citizens domiciled abroad are "evading taxes" and they should therefore be fiscally punished for living in a nation with a tax system that does not mirror our own, by paying US income tax on foreign-source income as if they were domiciled in the US. Law abiding middle-class US citizens often cannot survive today in those countries unless they renounce their US citizenship. In order to renounce they may, depending on their income and financial asset levels, also be required to pay a US exit tax[3] based on the market value of their assets even though they sell nothing. Citizens of no other country in the world find it necessary to renounce their citizenship in order to survive residing and working in a country other than their own. This is clearly a total disregard for the United Nations Declaration of Universal Human Rights which guarantees that every person shall have the right to freely leave and return to any country, including their own, which was ratified by the US Senate.

Tax returns filed by US citizens resident abroad are today so complex that highly competent professional assistance is absolutely indispensible. The minimum cost for this professional service is commonly $1,000 to $1,200 for the simplest filing, up to several thousands of dollars if they or their employer pay obligatory foreign social security taxes on their behalf, if they participate either voluntarily or are obligated by law to participate in foreign deferred income pension plans, own investments, a personal residence or other assets abroad where they live. If the foreign currency of their income appreciates between the instant when this income is received and when it is spent, then this change in equivalent dollar value of the foreign currency is subject to US capital gains tax. In volatile exchange rate countries this requires keeping complex daily records of income and expenditures and calculating the capital gain resulting from these daily exchange rate fluctuations as income is received and any of it spent. The IRS provides no toll-free telephone assistance for international filers, and in response to a international telephone calls to the IRS in the US for advice or clarification of tax questions, the standard reply is "sorry, but we are not able to provide information on international tax questions." Paid professional tax assistance is indispensible in order to avoid errors and omissions for which, even though there may be no effect on the US tax due, for example range from a minimum penalty of $10,000 up to 50% of the maximum value of such accounts during that year for an inadvertent error or omission in FBAR report TD F 90-22.1, even though this omission or error has no effect on the persons US tax liability. If the US citizen fails, through no fault of his own, to accurately report even one item on a non-owned account over which he has signature authority, the penalty could be several times the value of all of his own assets, rendering that person not only totally destitute but subject to a penalty so massive that he could never possibly pay it. This can only be described as cruel and unusual punishment which is prohibited by Article 8 of the US Constitution

The primary "revenue" beneficiaries of US citizenship taxation are the very highly specialized accounting firms, some of which are located in foreign countries and therefore are not subject to US taxation, that are uniquely qualified to provide this very specialized professional service. In developing countries where no competent professional tax assistance for US citizens exists, US citizens are on their own to search it out in the US or some other country.

There is no constitutional justification for imposing citizenship-based taxation. The Supreme Court ruled "That the receipt of income by a resident of the territory of a taxing sovereignty is a taxable event, which is universally recognized, is *domicile* as the basis for such taxation.[4]" The US is totally alone among the civilized nations in subjecting its citizens domiciled abroad to double taxation. The Treasury Department tax revenue annually from US citizens domiciled outside of the US is estimated to be in the $3 to $6 billion/year range, which is less than a rounding error in the US budget and but a pittance when compared to the estimated $20 billion being paid out by the IRS in fraudulent identity-theft and bogus child tax credits and the hundreds of millions being paid to fraudulent Medicare racketeers. The financial damage inflicted and the astronomical administrative cost of our unique citizenship-based taxation is hardly justification for the minimal revenue it generates for the US Treasury. The National Tax Advocate 2012 Annual Report to Congress section 13 describes the truly insurmountable problems faced by taxpayers domiciled abroad resulting in more than a six-fold increase in US citizenship renunciations between 2008 and 2011 because they cannot otherwise survive[5]. No other nation on the face of the earth imposes such draconian measures against its citizens living in another country such that they are forced to renounce their citizenship in order to survive. I have in my possession a copy of a letter to member of Congress, signed by a Treasury Department official in response to a query from one of the Congressman's constituents concerning how he cannot survive, having moved back to his country of origin in his later years after living most of his adult life in and becoming a naturalized US citizen. The double Social Security taxation on self-employment income by both that country and the US, for which there is no allowable foreign tax credit, has makes it impossible for him to survive financially. This Treasury Department response letter states "If his US tax liability and filing requirements are causing a hardship, he can consider relinquishing his US citizenship." This he is understandably reluctant to do because in accordance with the Reed Amendment incorporated in the US Immigration Law of 1965[6] it is stated:

> "Former citizens who renounced citizenship to avoid taxation:
> Any alien who is a former citizen of the United States who officially renounces United States citizenship and who is determined by the Attorney General to have renounced United States citizenship for the purpose of avoiding taxation by the United States is inadmissible."

Although it may be that this law is not currently being enforced, this is a Sword of Damocles hanging over the neck of every US citizen living abroad who follows this "relinquish your US citizenship" recommendation of the Treasury Department. It is important to note in this regard that the requirement that FBAR reports be submitted annually disclosing full details of all foreign bank and financial accounts with a total value of $10,000 at any time during a calendar year was enacted in 1970, with severe penalties for non-compliance. This law does not provide for any inflationary adjustment. Had its provisions included an adjustment for inflation, the adjusted-by-the-CPI 1970 threshold of $10,000 would be equivalent to $59,351 in 2013 dollars. The existence of this law was never revealed in IRS Pub. 54 "Tax Guide for US Citizens and Resident Aliens Abroad" or on IRS Form 1040 until subsequent to 2003 when FBAR enforcement was transferred by Congress from the Treasury Department to the IRS. Since then it has been used to collect large sums of money, the amount of which the IRS has so far declined to reveal, but likely more than a few billions of dollars in penalties from US citizens resident abroad, many of whom, as dual citizens of the country where they are domiciled, did not even know that the US considers them to be US citizens and were totally unaware and had no way of knowing they had any such FBAR filing obligation. Since the individual who received this Treasury Department "renounce your citizenship" recommendation referred to above has US-citizen children and grandchildren born and living in the US that neither he nor his wife would be able to visit again for the rest of their lives should someone in authority give the "enforce this law" order, they are most reluctant to renounce US citizenship lest they find their names on the Treasury blacklist of persons barred from entry into the US for any purpose; not even for personal medical treatment, to visit a terminally ill family member in a US hospital or to attend his funeral when he dies.

This National Taxpayer Advocate Report to Congress for 2011[7] states:

> "The complexity of international tax law, combined with the administrative burden placed on these taxpayers creates an environment where taxpayers who are trying their best; simply cannot."

The US entrepreneur who establishes a small business in a foreign country to sell exported US products must, for example. establish and maintain 3 sets of accounting records: One in local currency in compliance with local tax and other laws and two systems in equivalent US dollars – the first in accordance with US GAAP and for which a $10,000 IRS penalty may apply if not fully compliant, and the second for other purposes in compliance with the Tax Code. The IRS currency-conversion rules for the two US dollar accounting systems require daily conversions and are so extraordinarily complex that specialists are essential to perform these conversions correctly. And such small businesses are subject to taxation by both the foreign jurisdiction and the US under totally different tax rules and systems. Even the business may operate at a loss; these incompatible differences in accounting systems may reflect an inexistent profit in US dollar terms, thus subjecting the US citizen taxpayer abroad to US taxation on a loss. Losses do not generate funds with which to pay US taxes.

There are 16 IRS publications specifically for international filers totaling 407 pages with 110 references to other publications with 4,491 pages. The additional documents refer to 4,427 additional pages of instructions, 667 pages of tax forms with 1,928 pages of instructions for these forms, for a total of 7,332 pages. Only very large firms with highly specialized personnel come close to being able to being able to comply. Contrast this to the foreign citizen entrepreneur who relocates to set up a small business selling exports from his homeland in the US. He is subject to US rules and US taxes, but ***never*** subject to any taxation at all by his home country when he relocates to another country. He never finds it necessary to renounce his citizenship to become an entrepreneur, or just to survive as a private citizen, in a country other than his own.

The two adult children of Egyptian president Mohamed Morsi, having been born in the US, are US citizens and therefore subject to US income tax even though they left the US permanently as small children. Had our current tax laws been in effect in the 1940s, then Sir Winston Churchill, Britain's WW II prime minster, who was born in Britain, was a US citizen at birth, as well as a dual citizen of Britain, since his mother was a US citizen. This would have made Sir Winston a US citizen subject to US income tax on his worldwide income. Several members of Canada's parliament during recent years have likewise held dual Canadian-US citizenship and have therefore been subject to US taxation on their Canadian government compensation.

With residence-based taxation, the US withholding-at-source tax on the passive US source income of US persons resident abroad would unquestionably both improve tax collections and drastically reduce IRS tax collection costs.

Citizenship-based taxation encompasses not only all persons born in the United State but results in a US tax obligation for many persons who have no idea that they are US citizens. This includes persons born outside of the US to one American parent who are, by virtue of where they born, citizens of that foreign country, as well as persons born to a foreign citizen mother temporarily in the US, or in an aircraft flying between Mexico City and Toronto over US airspace at the moment of the child's birth and persons who have become naturalized citizens of another country some years back when doing so resulted in automatic loss of US citizenship with there being no requirement for formally renouncing their US citizenship before a US consular official outside of the US. This was before the US Supreme Court ruled that Congress had no constitutional right to deprive a person of US citizenship because of becoming a naturalized citizen of another country, and that such legislation was unconstitutional; resulting in their lost citizenship being restored retroactively with neither their knowledge nor consent. US persons in these categories are subject to US income tax on their world-wide income and the requirement to file FBAR and FATCA reports, even though they have never held a US passport, their birth was never reported to a US consulate abroad, they speak no English nor have never in all of their lives even visited the United States.

2. **Citizenship-Based Taxation Destroys the Competitiveness of US citizens for Overseas Deployment**

Citizenship-based taxation makes it necessary that US citizens abroad receive additional compensation and reimbursements to survive the significant additional tax costs that only Americans must pay when working abroad. This makes them unemployable for many overseas deployments, both by US and foreign employers. Foreign anti-discrimination laws, which are similar in many countries to our own, prohibit both employment and compensation discrimination based on national origin. This creates a catch-22 situation since only US citizens deployed abroad must receive additional compensation in order to survive the additional costs that only they must pay in being taxed simultaneously under two different sovereign tax systems. Where similar anti-compensation-based-on-nationality discrimination laws exist which make it illegal for employers to compensate US citizens for these additional tax costs, this renders Americans in fact unemployable overseas.

When the Tax Reform Act of 1976 drastically increased the US taxation of US citizens domiciled abroad was signed by President Ford on October 4, 1976 it was made retroactive to January 1 of that year. I was living and working in Brazil. The instant that legislation was signed, my cumulative income tax obligation to Brazil and the US increased from 10% more under the prior legislation to 81% more than the total tax obligation of any other person of any nationality (non-American) in Brazil with my exact same income and family status.

In 1976 the US was No. 1 in market share of the labor intensive worldwide engineering and construction projects. But because of the massive increase of US taxation of US citizens working abroad, the US by1978 had dropped to seventh place in that market, with Korea, Japan, Italy, Germany, Taiwan and India having moved ahead of the US in market share. Yugoslavia and the Soviet Union had moved up to close behind the US in 8^{th} and 9^{th} place.[8] Today US companies are totally absent from this top-ten list. With this loss of competiveness in winning these contracts resulting from the Tax Reform Act of 1976, the US also has lost untold hundreds of billions of dollars in export sales of the products and materials required to implement and provide continuing support for these projects. Non-US companies that were awarded these contracts sourced these products from manufacturers in their own countries rather than from the US. This was well documented in testimony presented before the House Ways and Means Committee on "Proposals Relating to Sections 911 and 912 of the Internal Revenue Dealing with Earned Income from Sources Outside of the US" on February 23 and 24, 1978.[9] I was present and was among the 104 persons who testified in person at this hearing, where sworn testimony, supported by GAO investigation reports, revealed that 75% of the US engineering and construction companies surveyed by GAO, as a direct result of the Tax Reform of 1976, had employees whose US tax obligation exceeded their salaries.

This is further documented in my testimony submitted to the House Ways and Means Committee hearing on May 12, 2011 on "The Need for Comprehensive Tax Reform to Help American Companies Compete in the Global Market and Create Jobs for American Workers[10]." This testimony was posted on-line by that Committee.

3. **Citizenship-based Taxation Violates both the US Constitution and the United Nations Universal Declaration of Human Rights**

Art. 4 of the US Constitution and Art 13 (2) and the UN Declaration of Universal Rights unanimously ratified by UN member states in 1948 as well as by the US Senate, guarantee the right of all citizens to leave and return to their own country. Citizenship-based taxation, however, deprives those private US citizens of this right who are always subject to residence-based taxation by both their host countries as well as US taxation on their worldwide income as if they never left home. The Supreme Court in 1937 ruled that domicile itself, affords the basis for taxation and that states cannot subject former residents who have left that state to such taxation. If it is unconstitutional for the states to subject former residents or to subject a person with a parent who was born in that state to such taxation, then the constitutionality of the Federal government to do this is questionable as is extra-territorial taxation of our citizens by the US within the sovereign borders of other nations. Some 30 nations currently have foreign currency exchange control laws which to varying degrees, restrict or totally prohibit the conversion of their currencies into dollars and the remittance of those dollars as tax payments to foreign tax authorities. US citizens in such countries, whose only remaining access to dollars is on the illegal black market, are forced to decide which prison system they are most likely to survive. No matter what they do they will be in violation of either the tax laws of the US or the foreign currency conversion laws of their host countries.

Eretria, the only other country that practices citizenship-based taxation, was condemned by UN Security Council Resolution 2023 (2011) on December 5, 2011, with the affirmative vote of the US Ambassador to that organization, for "resorting to extortion, threats of violence, fraud and other illicit means to collect taxes outside of Eretria" in violation of this UN Declaration by subjecting is citizens resident abroad to a 2% income tax. In January and again in October 2012 the Canadian Foreign Ministry sent a strongly-worded diplomatic note to the Government of Eretria[11] that Canada would not renew the accreditation of the Eritrean Consul, the only diplomatic official of that country in Canada, if it did not cease this practice. The Eritrean Ministry of Foreign responded two days later that it had "complied in full" with Canada's demands. The Netherlands is reported to have taken similar action against Eretria. But so far no nation has taken a similar stand against the US by threatening retaliatory action against the substantially identical US practice of levying and collecting taxes from its citizens domiciled within the other nation's sovereign borders.

With the recommended replacement of citizenship-based with residence based taxation it should be no more difficult for a US citizen to relocate abroad than it is today to change one's residence within the US from one state to another or as is currently the situation when a US resident leaves the US tax system upon relocating and becoming a resident of Puerto Rico and is no longer taxed by the IRS on Puerto Rico source income[12]. At the most the person doing this should be required to submit to the IRS a final tax return and a change-of-address form with a check box certifying that individual is no longer a US resident, having established permanent residence in another country. The same should be true of foreign citizens canceling their green card permanent residence status. There should be no exit tax assessment, either for foreign citizens or for US citizens renouncing their citizenship for those are current with their US tax obligations and whose income or financial assets exceed certain threshold levels, since they have already paid US income tax on their earnings. Although the Supreme Court has not been asked to rule in the constitutionality of this exit tax, it would appear that the constitution prohibits any direct tax on the value of asset holdings unless the revenue collected is distributed to the states on the basis of their population. Compliance of the current exit tax with this constitutional provision is therefore questionable[13].

4. **Citizenship-based Taxation Has Undermined American Influence in the World**

In 1962 the US, by far the world's largest exporter, totally dominated world trade. World War II had resulted in the massive destruction of the industrial infrastructure of Eastern and Western Europe and Japan. Only the US escaped that destruction and the nations of the world came begging at our door to purchase US exports. US corporations, the American Chamber of Commerce, US charitable foundations and private individuals collaborated in building a network of American schools around the world, often with State Department financial support, to provide the children of our diplomats and overseas Americans an education comparable with the free public school education in the US. US citizen teachers and school administrators were recruited to staff these schools, as well as qualified spouses of American expats in those countries. American expats dependent children acquired native fluency in two or more languages and were fully qualified to enter both the US and the university systems of the countries where they received this education and were uniquely qualified to later serve our country both as diplomats and unofficial ambassadors of democracy and the American way of life.

In 1976 ninety-five percent of the students at Escola Americana do Rio de Janeiro (American School of Rio de Janeiro, Brazil), where my children attended and my wife was a high school math teacher, were US citizens. But the Tax Reform Act of 1976 so drastically increased the US taxation of US citizens domiciled abroad that there was a massive withdrawal of US companies and the US expats they employed from foreign countries. Foreign market domination was handed over on a silver platter to our international trade competitors. This additional taxation made it far too expensive to maintain US expats abroad, so foreign subsidiaries were cut back, closed down or sold. Regional South America headquarters for several large American companies, such as General Motors, in Rio de Janeiro, were relocated to Miami, New York or elsewhere. The additional cost for business travel between US locations and Latin America for their personnel increased substantially, but this cost increase was dwarfed by the additional tax costs that would have resulted from the Tax Reform Act of 1976 had they maintained their headquarters in Brazil. Almost overnight the children of US citizens became a minority in this and many other overseas American Schools. Hundreds of thousands of overseas Americans came home from around the world as a direct result of that tax legislation. I know first hand because I was one of them. The enrollment at this school in Rio de Janeiro is the about the same today at around 1,000 as in 1976, but now only 15% are Americans; of which some 1/3 to ½ possess dual US-Brazilian citizenship[14]. Brazilian citizens and students from 43 other countries on 6 continents whose companies have taken over dominance of this market from US companies now make up 85% of the student body at this school. In 2011 graduates were accepted by 130 universities in 12 countries[15].

Philco-Ford in Brazil, for example, repatriated 46 of its 52 US citizen expatriate employees and replaced them with 45 expatriates from Europe and one from Venezuela. There was a massive one-time cost involved, but it was substantially less than what it would have cost in just one year to increase the compensation of the US expatriates to pay the unique additional costs imposed by this legislation for US taxation on their income in Brazil to which expatriates from no other country are subjected by their homeland governments.[16]

Employer reimbursements for this additional tax expense is considered income subject to taxation by both the IRS and the foreign country of residence, thus creating additional tax revenues primarily for the foreign country but little or nothing for the US. The foreign tax credits for these additional foreign taxes frequently totally cover the additional US tax obligation and, in all likelihood produce little or no additional revenue for the US Treasury. US citizenship-based taxation therefore substantially increases the costs that contribute to making US companies less competitive abroad. The tax revenue that goes into the treasuries of foreign countries far more that that ending up in the US Treasury This makes neither fiscal nor economic sense.

The Price Waterhouse LLP Report “Economic Analysis of the Foreign Income Exclusion” dated October 1995[17], page 24, referring to the Pierson-Ridel sample included therein states that small US companies account for 32% of overseas US expat employment whereas larger US businesses, which have a much higher ratio of local to US citizen employees, account for 3%. This suggests that citizenship-based taxation has over 10 times the negative effect on total compensation costs for the operations of small US businesses abroad as it does for large companies. This is a massive barrier to the addressing of the export market for US products by the small US businesses that account for 49.2% of the total private employment in the US, and which in 2012 was responsible for 64% of new US private sector jobs.[18]

American citizens living and working abroad are, in effect, “free” American ambassadors who propagate American cultural penetration and our democratic values. Proponents of citizenship-based taxation fail to appreciate how important just seeing and experiencing first hand these values in the everyday lives of these un-appointed ambassadors, be they businessmen, teachers, college professors, University department chairmen, clergymen, missionaries, engineers, accountants, charitable organization workers, and their spouses, and how vitally important these are in sustaining American standards of conduct outside of the United States. Every week The Economist Magazine includes extensive multi-page “Appointments” and “Executive Focus” sections with several pages of advertisements, largely from developing countries and international organizations recruiting foreign expertise for positions as professors and department chairmen for their universities, and for leadership positions for government agencies and international organizations. These are role-model positions which generally pay modest salaries, but often they include free housing, tuition for the education for school-age children at private in-country international schools, personal security for family members, and the exclusion of their compensation from local income taxation in order to successfully and affordably recruit the foreign expertise needed to build their economies and serve as role-models for their future leaders. Prior to the enactment of citizenship-based taxation, the US was a much sought-after source for foreign expertise, but today US citizens generally need not apply because with citizenship-based taxation the US tax on these salaries, in-kind benefits and other out-of-pocket reimbursements incident to these overseas positions of influence not infrequently exceed the salaries these positions pay, thus leaving US citizens with less than nothing with which to buy groceries, pay personal expenses or for any savings. Today it is countries such as China and Cuba that have replaced the US as prime sources of educators and government advisers molding the minds of the future leaders and the policies of the developing world and we are already reaping the damaging results. Seven Latin and Caribbean nations, most of which until recently were always in our camp, met earlier this year in Santiago, Chile for the 3rd meeting of CLEAC – The organization of Caribbean and Latin American States, a new organization created under the leadership of the recently-deceased Venezuelan president Hugo Chavez to counterbalance the influence of the US and the Washington-headquartered OAS - the Organization of American States. The US was excluded from this meeting at which, among others, Cuba’s Raul Castro was a keynote speaker. However top level representatives from the EU, including 40 heads of state, including German chancellor Andrea Merkel, and the presidents of the CLEAC countries, including Ecuador, Brazil, Bolivia, Argentina, Chile, Peru, Colombia, Venezuela, etc., were active participants in this meeting where positive agreement was reached to accelerate the negotiation of Free Trade Agreements between the CLEAC countries and the EU, some of which are already in place. We have already largely lost the pro-democracy cultural war as a direct result of our unique and short-sighted citizenship-based tax system, as many countries that were formerly solid US allies are now governed by leaders whose value systems are the diametrically opposite of US democratic values.

International executive recruiters often include in their advertisements the statement “US Citizens need not apply” because US tax laws make it impossible for US citizens, no matter how experienced and well qualified, to even be considered for such positions.

5. **Citizenship-Based Taxation Has Transformed the former US Trade Surplus into a Permanent and Massive Job And Tax Revenue Destroying Trade Deficit.**

The total US unemployed and underemployed and is estimated at some 25 million[19]. A prime factor for this high unemployment is the massive $735.7 billion 2012 US world trade deficit which equals some 60% of the world's total trade deficits. According to the CIA World Factbook data for 2012, the US with 4.4% of the world's population generates 22% of the world's GDP. US exports, however, contribute an anemic 10% to US GDP. Exports are a far greater percentage for each and every one of the major high-wage industrialized countries that compete with the US for this same world export market: For example:

Country	**Percent of GDP**		**Ratio: Exports/Imports**
	Exports	**Imports**	
USA	10%	15%	0.67
Germany	46%	39%	1.18
Switzerland	48%	46%	1.04
Canada	34%	33%	1.03
Netherlands	72%	64%	1.13
Belgium	66%	67%	0.98
Italy	25%	24%	1.04
Sweden	34%	32%	1.06

Commerce Department metrics indicate that each $1 billion in exports creates from 6,000 to 15,000 American jobs[20, 21]. The US 2012 merchandise trade deficit of $735.7 billion therefore equates to some five to eleven million destroyed American producing-for-export jobs. At 18% of GDP this trade deficit also represents some $130 billion in US tax revenues that these destroyed jobs never produce. That's at least 20 times more than the total tax revenue generated by the citizenship based taxation that has destroyed these exports and the US jobs producing them. US exports represent some 10% of our GDP whereas foreign imports equal 15% of GDP. Even though its per-capita imports are 2.3 times greater than those of the US, Germany closed 2012 with US$241.9 billion world trade surplus; the second highest in German history, and the lowest unemployment rate in 21 years. How did they do it? Germany's exports are 4.3 times greater per-capita than those of the US and Germany, although it imports more-per-capita from China than the US, has balanced trade with that country. Over the 6-year period 2002-2008 the value of the Euro appreciated 90.4% with respect to the US dollar, thus making German products correspondingly far more expensive in dollar terms then competing US-made products, not only in China but in the entire world market. These economic facts totally discredit the oft-repeated shibboleth that China's policies are the reason for our massive China trade deficit because of its undervaluing of its currency with respect to the dollar. During that same time period the US trade deficit with the EU, rather than disappearing or even decreasing, nearly doubled by increasing 98.2%

Dependence of the US on imported petroleum as a contributor to our trade deficit cannot be ignored, but in spite of Germany's almost 100% dependence on imported petroleum it far out-performs the US in exports. China's 2012 world trade surplus of $233.9 billion was less than that of Germany. Germany's unemployment rate is currently the lowest in

21 years. China is the second largest import market in the world. Were it not for China's massive $315 billion trade surplus with the US, China would have in fact recorded a $37 billion 2012 world trade deficit

On a per-capita basis Germany's exports to China, although higher priced than competing American products, are 7.8 times greater than those of the US. The single most important factor which contributes to Germany's success in dominating export markets and capturing export sales away from US producers is the manner in which each country treats its citizens who relocate abroad to capture sales in the foreign markets which create jobs back home. Germany, like every other industrialized country in the world (with the one exception of the United States) practices residence-based taxation (RBT). The US is the only industrialized nation which stifles its exports with a citizenship-based tax system. Germany subjects the income of all persons who reside within its borders, regardless of nationality, to taxation of their world-wide income, but it does not tax its citizens on foreign-source income who reside and work outside of Germany. The US also taxes the income of all persons residing within our sovereign borders but, in addition, subjects all "US persons," which includes both citizens and green card foreign citizens, to US taxation of their world wide income when they live and work outside of the US where they are have already been subjected to taxation on this same income by their host country of residence.

5. Citizenship-Based Taxation Makes a Mockery of US Free Trade Agreements

The objective of Free Trade Agreements is to create jobs in the countries which are parties to such agreements by opening and expanding markets through

a. Elimination of customs duties and other trade barriers
b. Elimination of import and export restrictions
c. Establishing of mutual rights and obligations

The positive and negative results of NAFTA can be summarized by comparing trade between the US and both Canada and Mexico from 2003; the last year prior to NAFTA and in 2012[22].

Trade With Canada

- US exports to Canada up from $169 Billion to $292 Billion: +73%
- US imports from Canada up from $138 billion to $278 billion: +101%
- US trade deficit with Canada decreased by 44%

Trade with Mexico

- US exports to Mexico up from $97 billion to $216 billion: +84%
- US imports from Mexico up from $138 billion to $278 billion: +101%
- US trade deficit with Mexico increased by 35%

These results are mixed. The total volume of trade with Canada increased by 55% and with Mexico by 109%. Mexico has 12 Free Trade Agreements which encompass 44 countries. Eighty percent of Mexico's exports are to the US, but only 50% of its imports are from the US.[23] Between 2004 and 2011 Mexico's exports to the US increased by 475%. During this same period US exports to Mexico increased by 81%. While Mexico has a healthy trade surplus with the US it has a 2-to-1 trade deficit with the EU, with which it also has a Free Trade Agreement and whose citizens are treated back home as patriots when they relocate abroad to capture the export sales that create jobs in Germany. Rather than being treated as tax-evading traitors as Americans are and thus penalized with double taxation, if they relocate abroad to expand export sales they are treated as patriots. So the EU, with higher-priced products, captures market away from American suppliers in Mexico, which is right in our own backyard. Merchandise exports to the EU account for 5.5% of Mexico's total exports but its imports from the EU are 10.8% of its total imports[24].

Canada has 11 Free Trade agreements, including with the EU, and is currently in negotiations for 15 more, including with Japan, and it has a balance in its world trade.

Why do the US labor unions so strongly oppose Free Trade Agreements whereas in other countries, Switzerland being one such example, Swiss labor leaders are among the strongest supporters of the Free Trade Agreement currently being negotiated between Switzerland and China? Switzerland already exports 9.3 times more per-capita to China than the US and a free trade agreement will create more jobs for Swiss workers and greater prosperity for that nation. Most probably this agreement, when finalized, will result in further erosion of the US share of the China market. The US is today the world's No. 1 market for imported goods. China, which imports high tech and value-added products what it does not itself produce, is No. 2. The reason for US labor opposition to Free Trade Agreements is that because our tax laws punish US citizens who relocate abroad to sell what we produce. Consequently, with few exceptions, such agreements result in the loss of more American jobs than are created by these agreements. Free Trade is a license, somewhat akin to a deer hunting license. With a hunting license deer do not come beating the hunter's cabin door begging to be shot any more than foreign customers come crawling on hands and knees begging to purchase American products while competitors are beating on their doors; order books in hand, and are building customer service networks abroad to support what they sell. They get the orders but we don't.

The reason is that in our negotiations we have failed to remove the barrier erected by our own citizenship-based taxation while never even raising the issue of the inherent unequal export advantage the other country has over the US with their residence-based tax systems. Citizens of other countries, when they relocate to the US to capture market share for their products are subject to US taxation on their world-wide income, but they are no longer subject to homeland taxation on that same income from then moment they transfer their domicile from their homeland to the US. American citizens who relocate abroad, however, are not only subject to the tax laws of their new country of residence but continue to be subject to US taxation on that same income as if they never left home. Many items of income which are not subject to foreign tax are taxed by the US, and vice-versa, so double taxation for US citizens abroad, but not for citizens other nations, is the norm our negotiators accept without batting an eyelash. The GAO 1981 Report to Congress "American Employment Abroad Discouraged by US Income Tax Laws[25] states:

> "Congress should consider placing Americans working abroad on an income tax basis comparable with that of citizens of competitor countries who generally are not taxed on their foreign earned income, because (1) present U.S. tax provisions are widely regarded as discouraging employment of U.S. citizens abroad; (2) present tax provisions have reportedly made Americans relatively more expensive than competing third-country nationals, thereby reducing their share of employment abroad by major U.S. companies; and (3) Americans retained abroad by major companies are generally reimbursed for their higher taxes, adding to the companies' operating costs and making them less competitive."

Also, different from back in 1981, many countries today have anti-discrimination laws similar to our own, which prohibit compensation discrimination based on nationality or national origin. In such countries, even if it were affordable (which is most unlikely), employers are prohibited by law from paying higher compensation to US persons because of the additional costs they must bear as a result of being simultaneously subject to the very different tax systems of two sovereign states. This makes US citizens totally unemployable in those countries. The words from this GAO Report are as true today as they were when written, but because Congress has so far refused to take them seriously. From 1981 to 2012 the cumulative US merchandise trade deficit has increased by $10.9 trillion. This translates into many millions of destroyed American jobs producing products for export.

On January 10, 2010 President Obama announced his National Trade Initiative to double US exports in 5 years. On October 12, 2012 in the last of the pre-election presidential candidate debates with Gov. Romney, President Obama stated that this objective had already been met; well before the end of the 5 year period. The Census Bureau trade statistics indicate that US merchandise exports in 2011 were $1,482 million as compared to $1,056 million in 2009 for an increase of 41.5%. However imports grew even more from $1,560 million to $2,208 million. The net result was a trade deficit increase of 52.8% between 2009 and 2011. During 2012 the US trade defect was some $2 billion per day. This 2010 objective to double exports is far from having been met. We are not even treading water in meeting this objective.

The EU, with which the US has had a perpetual trade deficit since it was created in 1993 and with which the US recorded a $116 billion merchandise trade deficit in 2012, has formally proposed negotiating a Free Trade Agreement with US. Maintaining trade barriers against the export of our own products is absolutely the worst thing our government can do. The US does not control the terms of trade like we once did when the US dominated the export market. Our trade competitor nations are never going to complain to the WTO, or any body else, if the US chooses to fiscally punish its citizens so they will stay home and not compete with other nations in the job-creating export market because that makes their job easier and ours harder. Unless we remove this citizenship-based taxation barrier against US exports and replace it with the residence based taxation of every other civilized nation on the face of the earth, a Free Trade Agreement with the EU, just like NAFTA, will destroy far more American jobs than it will create. Exports do not sell themselves and we cannot rely on foreign mercenary citizens from our competitor nations to do the job for us. Understandably their loyalties lie elsewhere. It takes American feet on the ground to capture export markets for the American-made products and services that create jobs here at home in exactly the same way that it required US Navy SEALS to take out bin Laden. Common sense tells us that was not a task to entrust to foreign mercenaries. After 36 years of having enacted tax legislation for the purpose of fiscally punishing Americans who live and work abroad, during which we have never recorded even one single year with a trade surplus, it could not be clearer what Congress and the Administration must do, and that is to replace the job destroying export-suppressing citizenship based taxation with job creating export propagating residence-based taxation. Otherwise the playing field cannot and will never be level, but will instead continued to be tipped by our own citizenship-based taxation against ourselves.

When the Tax Reform Act of 1976 massively increased my cumulative tax obligation to Brazil plus the US while living and working abroad in that country. Both my country of residence and to the United States, my country of citizenship, taxed me to a level which I could not survive, I was managing director of a Telcom S.A., a Brazilian-owned company selling US-made telecommunications exports in the Brazilian market, having opened that market by introducing these products there. I could not survive this double taxation so resigned and returned to the US to start a new career. Without my product expertise and leadership the Brazilian owners soon closed down the company. A French company with similar products but with no prior presence in Brazil quickly established such a presence, deployed a highly competent French managing director and hired several of our former employees who knew the market, and 8 years later was responsible for $1 billion in French exports to Brazil while the US share of that market dropped to near zero. I had done the legwork in opening that market but the French company reaped the harvest This same thing happened all over the world, particularly in countries with tax systems different from our own where, in some cases the effect of this 1976 legislation resulted in much higher percentage tax increases for US citizens than in my case in Brazil. In some countries, according to the previously cited GAO report, that legislation resulted in US citizen facing a total domestic and foreign tax obligations 4 times that of every other nationality living and working in that same country. Just 736 cases like mine, and there were thousands more, clearly illustrate why the US today has as $735.7 billion trade deficit rather than either balanced trade or, like many of our even higher-wage industrialized trade competitor nations, a domestic job-creating trade surplus. Our $11.2 trillion cumulative merchandise trade deficit since our perpetual trade deficits began in 1976 is of same order of magnitude as our nation's fiscal deficit debt obligations. The US trade deficit is, in fact, a prime cause factor for our fiscal deficit. Every nation must export in order to pay for what it imports. The US has not done that since 1975, that being the very last year in which the US recorded a trade surplus, which was in fact the largest trade surplus in our entire history.

World trade is not a zero-sum game. Free Trade Agreements can be and, in fact are a necessary tool in economic growth, both for the US and our trade partners. But in order for these to produce this desired win-win result bor both parties Congress must, with the full support of the Administration, abolish export-stifling citizenship-based taxation which serves only to attach a ball and chain to Americans to discourage them from relocating abroad to sell what we make, and turn Americans loose once again to compete on a level playing field against our international competitors, none of whose nations have erected this unique-to-the-US barrier against their own exports. Free Trade agreements are essential for the reactivation and growth of the US economy. No nation today can survive, let alone prosper and grow, as an island unto itself. It a deceptive hope to believe that Free Trade Agreements will produce their potential positive results for the US without abolishing the suppressive effect on US exports that result from citizenship based taxation which prevents the US from taking full advantage of Free Trade Agreement provisions to maximize their potential in growing the US economy.

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